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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re ANA F. et al., Persons Coming Under
the Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

BARBARA R.,

Defendant and Appellant.

D038535

(Super. Ct. No. SJ010747A/B)

APPEAL from a judgment of the Superior Court of San Diego County, Hideo
Chino, Referee. Affirmed.

Barbara R. appeals a judgment denying her de facto parent application and her
Welfare and Institutions Code ¹ section 827 petition for disclosure of the juvenile court

¹ All statutory references are to the Welfare and Institutions Code.

records of her granddaughters, Ana F. and Alyssa F. She contends the court erred by (1) not providing her with a fair hearing on her de facto parent application and (2) not properly evaluating her section 827 petition. We affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

In August 2000 the San Diego County Health and Human Services Agency (Agency) filed a dependency petition on behalf of then newborn baby Ana under section 300, subdivision (b), alleging she had suffered or was at risk of suffering serious physical harm or illness. The petition alleged that Ana and her mother, Christina, tested positive for methamphetamine and that Christina had little or no prenatal care. The court detained Ana at Polinsky Children's Center (Polinsky).

A jurisdiction/disposition report stated that Christina and the alleged father, Pedro, had been involved in a relationship for over six years and had three children, six-year-old Gabriel, two-year-old Alyssa, and newborn baby Ana. Christina stated that if Ana could not be returned to her care, she wanted her to be placed with a paternal aunt or with Pedro. Barbara, the maternal grandmother, lived in Nevada, and wanted Ana to be placed in her home. The report stated that a request for an evaluation of Barbara's home had been made through the Interstate Compact on the Placement of Children (ICPC).

At a September 2000 jurisdictional hearing, the court found Ana was a person described under section 300, subdivision (b). The court placed Ana in a licensed foster home and ordered Christina to comply with her case plan.

In January 2001 the Agency filed a petition on behalf of then three-year-old Alyssa under section 300, subdivision (b), alleging she had suffered or was at risk of

suffering serious physical harm or illness and that Pedro had sexually abused her. At the detention hearing, the court detained Alyssa at Polinsky and ordered supervised visitation for Christina and no visitation or contact with Pedro.

Barbara wrote numerous letters to the court. In one letter, she wrote that the Child Protective Services (CPS) workers were trying to close her grandchildren's cases because they had an overload of cases and did not want any more children to receive social services. She stated she had a sincere, loving and caring relationship with all of her grandchildren and wanted to have guardianship of them. She believed it was possible for the children to reunify with their parents, and she asked the court to understand that although Pedro made some mistakes in the past, everyone makes mistakes. She also believed that the CPS workers were intentionally delaying her home evaluation because the state of Nevada did not want dependents from other states placed in Nevada homes. She stated that her son Michael, with whom she lived, no longer had mental illnesses or substance abuse issues.

In another letter to the court, Barbara stated she was "far from being brain damaged [al]though family members are attempting to say this." She attached a document from a hospital stating that certain irregularities revealed by a test performed on her brain were "not necessarily associated with any sort of brain damage." In another letter to the court, she stated she was a good grandmother and provided her grandchildren with financial assistance, parental instruction and advice, childcare, love, educational instruction, housing, entertainment and travel. She stated that Alyssa always greeted her

by calling her grandma and jumping into her arms, and that she bonded with Ana when she and her son Michael visited her in California.

In another letter to the court, Barbara stated she believed her psychological evaluation was an attempt to "eliminate" her from her family. She stated the evaluation was inaccurate because she was given only 30 minutes to discuss her life, family, and her involvement with her grandchildren's cases. The evaluation stated it could not recommend placing the children with Barbara until it had more information, but Barbara believed that discussing things further was not going to clear things up.

At a jurisdiction hearing, the court found Alyssa was a person described by section 300, subdivisions (b) and (d). At a disposition hearing, the court ordered Alyssa to be placed in a licensed foster home.

A March 2001 status review report for Ana recommended terminating reunification services and setting a section 366.26 hearing. According to the report, Ana had been living in her foster home since September 2000 and was receiving proper care. Her foster mother was committed to caring for her on a long-term basis. The report stated that Barbara was appropriate with Ana and brought her gifts when she and Michael visited her. However, the ICPC worker complained that Barbara called consistently, including weekends, and left lengthy messages about her daughter's mental stability and her grandchildren's whereabouts. She repeatedly asked that Alyssa be removed from her mother's care and said she wanted Christina placed in a mental institution, and if that was not possible, she wanted Adult Protective Services to take Christina into custody. A

clinical specialist who performed Barbara's mental status check did not recommend placing the children with Barbara.

In March 2001, Barbara filed a section 827 petition for disclosure of Ana's and Alyssa's juvenile court records. She stated that as a grandmother, she had the right to know the status of their cases, their placement plans and any matters concerning reunification. She stated she was an active party to the case because she had requested guardianship of the children. The court denied the petition.

An April 2001 addendum report stated that Christina was living with Pedro again and had not enrolled in a drug treatment program. At the six-month review hearing for Ana, the court continued Ana's placement in a licensed foster home and found the parents had not made substantive progress with their case plans. The court set a section 366.26 hearing.

In June 2001 Barbara filed a de facto parent application. She stated she had known Alyssa and Ana all their lives and had lived with Alyssa between 1994 and 2000. She also stated she visited the children and supported them financially.

A July 2001 status review report for Alyssa recommended terminating reunification services and setting a section 366.26 hearing. Alyssa was doing well in her foster home. The report stated that Barbara visited Alyssa about six times and was loving and affectionate toward her. The report noted that although Barbara was evaluated as a possible placement, her home study was denied and a mental status check did not recommend placing the children with her.

At a six-month review hearing for Alyssa, the court found Christina had not made substantive progress with the provisions of her case plan.

A section 366.26 report for Ana recommended terminating parental rights. Ana was developmentally on target and had bonded to her foster family. Christina wanted the foster family to adopt Ana. According to the report, Barbara's visits with Ana had been terminated because Barbara was hostile and had made threats to the social worker.

In July 2001 Barbara again filed a section 827 petition for disclosure of juvenile court records. She stated that as a relative with preferential consideration for placement, she wanted to know why the court denied placement of her grandchildren with her and why her ICPC home study was denied. She also requested to see what the files said about her relationship with her grandchildren and her ability to care for them.

In August 2001 the court held a special hearing on Barbara's de facto parent application and section 827 petition. Barbara stated she had lived with Alyssa intermittently in 1997 and between January and April 2000. She never lived with Ana. She stated she was involved in the children's lives since they were born and was a very good grandmother. The court denied the de facto parent application as to both Ana and Alyssa, basing its finding on its "inquiry and the statements of counsel, as well as the application," and on the history of Barbara's contact with the children. It denied the section 827 petition on the ground "there's no standing." The court's written order stated the court denied the section 827 petition "based on [the] application itself and on [the] inquiry of the maternal grandmother."

DISCUSSION

I

De Facto Parent Application

Barbara contends the court erred denied her a fair hearing on her de facto parent application because it did not entertain any sworn testimony or admit any evidence and instead "merely made an informal inquiry" of her. She makes this contention as to Alyssa only. We conclude that any error was harmless because there was substantial evidence supporting the court's finding that Barbara did not qualify for de facto parent status.

A de facto parent is "a person who has been found by the court to have assumed, on a day-to-day basis, the role of parent, fulfilling both the child's physical and psychological needs for care and affection, and who has assumed that role for a substantial period." (Cal. Rules of Court, rule 1401(a)(6).) Under the local rules, a de facto parent is also the "current or recent caretaker" of the child. (Super. Ct. S.D., Local Rules, rule 6.3(c).) The decision to grant or deny de facto parent status depends on an assessment of the particular individual and the facts of the case. (*In re Patricia L.* (1992) 9 Cal.App.4th 61, 66.)

Barbara stated in her application that she lived with Alyssa and Gabriel from 1994 to 2000. However, at the hearing, she told the court that she lived with Alyssa only "intermittently" in 1997. The record shows Alyssa was not born until November 1997. The only other time Barbara lived with Alyssa was between January and April 2000.

Throughout the proceedings, Barbara lived in another state. She was not Alyssa's "current or recent caretaker."

Further, Barbara never assumed a parental role for Alyssa. Because she did not live with Alyssa for any substantial period of time, she was unable to provide Alyssa with day-to-day care or meet her physical and psychological needs. Although their visits went well and Barbara stated she had a close relationship with her grandchildren, there was no evidence that Alyssa viewed Barbara as a parent. Because Barbara has not shown any likelihood of a different outcome had the court sworn her in and formally received evidence at the hearing on her de facto parent status, any error was harmless.

II

Section 827 Petition for Disclosure of Records

We disagree with Barbara's contention that the court erred by denying her petition for disclosure of records under section 827.

Section 827, subdivisions (a)(1)(A) through (L) describe the categories of persons or entities that are entitled to inspect juvenile court records without seeking the court's permission. Section 827, subdivision (a)(1)(M), provides that juvenile court records may also be inspected by "any other person who may be designated by court order of the judge of the juvenile court upon filing a petition." The juvenile court has "exclusive authority to determine whether disclosure of juvenile records to persons not specifically named in the statute is in the best interest of the minor." (*In re Maria V.* (1985) 167 Cal.App.3d 1099, 1103.)

The confidentiality of juvenile court records is to protect the privacy rights of the dependent child. (§ 300.2; *In re Keisha T.* (1995) 38 Cal.App.4th 220, 238.) The juvenile court "must recognize the general policy of confidentiality and hold paramount the best interests of the minors." (*In re Keisha T.*, *supra*, 38 Cal.App.4th at p. 240.) "Only information that is necessary and that has substantial relevance to the legitimate need of the petition should be released." (*Ibid.*, citing Cal. Rules of Court, rule 1423(b).) "[T]he balance of the [various] concerns weigh predominately against access." (*Pack v. Kings County Human Services Agency* (2001) 89 Cal.App.4th 821, 829.)

Denial of a section 827 petition is reviewed under the abuse of discretion standard. (*Pack v. Kings County Human Services Agency*, *supra*, 89 Cal.App.4th at p. 835.) Where a trial court has discretionary power to decide an issue, a reviewing court will not disturb that decision unless the trial court exceeded the limits of legal discretion by making an arbitrary, capricious or patently absurd determination. (*In re Raymundo B.* (1988) 203 Cal.App.3d 1447, 1456.)

Because "any . . . person who may be designated by court order of the judge of the juvenile court upon filing a petition" is authorized to view juvenile court records (§ 827, subd. (a)(1)(M)), the court erred when it stated it was denying Barbara's section 827 petition because "there's no standing." However, "[o]n appeal, we review the trial court's ruling, not the reasons given for it. If the ruling is correct, it will be affirmed even if it was reached by a mistaken line of reasoning. [Citation.]" (*Oakdale Village Group v. Fong* (1996) 43 Cal.App.4th 539, 547.) We conclude the court properly denied Barbara's section 827 petition because she did not show that the information she sought was

necessary and substantially related to a legitimate need. (See *In re Keisha T.*, *supra*, 38 Cal.App.4th at p. 240, citing Calif. Rules of Court, rule 1423(b).)

Barbara stated she wanted to see the juvenile court records because she wanted her grandchildren placed with her. However, she had already been rejected as a possible placement because her home study was denied and a clinical specialist who performed a mental status check did not recommend placing the children with her. To the extent she contends she was denied the opportunity to rebut the home study and mental status check and correct any inaccurate statements made about her in the files, we conclude she already availed herself of that opportunity through her numerous letters to the court.

In over 150 pages of letters and documents to the court, Barbara stated she should be considered as a possible placement. Although she had not seen the detailed results of the ICPC home evaluation, she essentially rebutted any negative home study findings by arguing that her home was a good placement option for her grandchildren and that her son, with whom she lived, no longer had the mental illness and substance abuse problems he had in the past. She had seen the results of her psychological evaluation and had rebutted it by stating that it was inaccurate because she was given only 30 minutes to explain everything. She rebutted her family's accusations that she was "brain damaged" by submitting a document from a hospital stating that certain irregularities revealed by a test performed on her brain were "not necessarily associated with any sort of brain damage." She rebutted any negative statements in the juvenile court records regarding her relationship with her grandchildren by stating many times that she was a loving grandmother who provided her grandchildren with care and affection.

Her petition reveals that her main reason for requesting to see the juvenile court records was simply to further rebut any specific statements made about her. Her concern as a grandmother is understandable, but her curiosity and wish to rebut every negative statement about her in every report does not justify the granting of a section 827 petition. Further, Barbara has not shown how disclosure of the juvenile court records to her would in any way promote the best interests of the children. (See *In re Maria V.*, *supra*, 167 Cal.App.3d at p. 1103 [court considers whether disclosure is in best interests of the child].) The court did not err by denying Barbara's section 827 petition.

DISPOSITION

The judgment denying Barbara's de facto parent application and her section 827 petition for disclosure of records is affirmed.

O'ROURKE, J.

WE CONCUR:

KREMER, P. J.

McINTYRE, J.